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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
			CELL-15.3
			EXAMINER

NAME OF APPLICANT
CELL-15.3
100 WAREHOUSE DRIVE
DALLAS, TEXAS 75241

ART UNIT	PAPER NUMBER
1205	3

DATE MAILED: 07/08/97

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS**RESTRICTION REQUIREMENT OFFICE ACTION SUMMARY**

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213:

A shortened statutory period for response to this action is set to expire _____ month(s), or thirty days, ~~whichever is longer~~, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-62 is/are pending in the application
- Of the above, claim(s) _____ is/are withdrawn from consideration
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-62 are subject to restriction or election requirements

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

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Art Unit: 1805

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I. Claims 1, 2, 6-12, 19-22, 24, 29-61, drawn to a DNA plasmid comprising an adenoviral genes and packaging cell line, a mutant adenovirus defective in replication, adenoviral vectors, methods of treating hereditary diseases or vaccines, classified in Class 435, subclass 320.1, Class 424, subclass 93.2, Class 435, subclass 366, etc.

Group II. Claims 3-8, 13-18, 23, 25-31, 33, 34 and 62, drawn to a DNA plasmid comprising an adeno-associated virus (AAV) gene and a packaging cell line, mutant AAVs defective replication, recombinant AAV viral vectors defective in replication, classified in Class 435, subclass 320.1; Class 424, subclass 93.2; Class 435, subclass 235.1, etc.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II recite different DNAs, vectors, packaging cell lines, etc. derived from different (unrelated) viruses with each invention being capable of supporting separate patents.

With regard to Claims 6-8 and 29-31, 33 and 34, these claims are included in both Groups as said claims are generic. These claims will be examined to the extent that they read on the elected invention, i.e. if applicants elect Group I, these claims

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will be examined to the extent that they read on adenoviral DNAs, vectors, packaging cell lines, etc. and methods of use of said vectors and viruses for gene therapy or vaccines.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

Certain papers related to this application may be submitted to Art Unit 1805 by facsimile transmission. The FAX Number for this Art Unit is (703) 308-0294. The faxing of such papers must conform with the notices published in the Official Gazette, 1156

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OG 61 (Nov. 16, 1993) and 1157 OG 94 (Dec. 28, 1993) (See 37 CFR 1.6(d)). NOTE: If applicants do submit a paper by fax, the original signed copy should be retained by applicants or applicants' representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED so as to avoid the processing of duplicate papers in the Office.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Guzo whose telephone number is (703) 308-1906. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Elliott, can be reached on (703) 308-4003. The fax phone number for this Group is (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

David Guzo
July 7, 1997


DAVID GUZO
PRIMARY EXAMINER
GROUP 1800

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